

## REMARKS

### REJECTIONS UNDER 35 U.S.C. § 112

Claims 29, 37, 47, 55, and 72 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Office Action asserts that the claims include material not described in the Specification in such a way to reasonably convey to one skilled in the art that the applicant had possession of the claimed invention. Applicants traverse. Each claim is addressed below.

Claims 29, 47, and 72 include language related to applying a rule to a respective protocol element of a packet. At page 3, lines 8 to 10 of the Specification, Applicants have disclosed that a data element is a protocol element. Furthermore, Applicants disclosed at least in the following locations that in certain implementations a rule corresponds to a protocol element: page 3, lines 20 to 21, page 4, lines 6 to 7, page 30, lines 6 to 8. One of skill in the art would recognize that the term "respective" in the claim language refers to the association of rules corresponding to data elements. Thus, the rejection is improper as to these claims, and Applicants respectfully request withdrawal of the rejection.

Claim 37 was rejected for including language directed to a "table or rule." Applicants disclosed rules and tables throughout the specification, and disclosed at least at page 34 that a table or a rule of a filtering database can be modified or deleted. Thus, the language is supported in the Specification as recited. However, despite the fact that the invention as formerly claimed is proper in light of 35 U.S.C. § 112, first paragraph, in an effort to make clear that the scope of the claimed invention covers modification of a rule or a table of a filtering database, Applicants include amendments to this claim herein. Incidentally, the language "table or rule" was removed, rendering rejection of this claim moot.

Claim 55 was rejected for including the expression "unique." Applicants disclosed a "unique node" at page 34, line 23 to page 35, line 1. Within the disclosure at page 34, line 6 to page 35, line 10, Applicants submit that one skilled in the art would understand a unique node as applying a unique rule table corresponding to a selected protocol element, as recited in the claimed invention. Therefore, the rejection is improper, and Applicants respectfully request withdrawal of the rejection.

REJECTIONS UNDER 35 U.S.C. § 102

Claims 29, 31-42, 47-49, 55, 56, 59, 62 and 72-83

Claims 29, 31-42, 47-49, 55, 56, 59, and 72-83 were rejected under 35 U.S.C § 102(e) as being unpatentable over U.S. Patent No. 6,304,903 issued to Ward (*Ward*). Claims 38-42 and 62 have been canceled. Therefore, the rejection of these claims is moot. Thus, Applicant submits that claims 29, 31-37, 47-49, 55, 56, 59, and 72-83 are not anticipated by *Ward* for at least the reasons described below.

Independent claim 29 recites the following:

a filtering database comprising layered rule tables, **wherein each rule table applies to a respective protocol element of a packet** and comprises a protocol element locator and a default rule; and

a packet filtering engine coupled to the filtering database for filtering said packets using at least one rule table in the filtering database.

Thus, Applicant claims a filtering database comprising layered rule tables, wherein each rule table applies to a respective protocol element of a packet. Independent claims 47, 55 and 72 recite similar limitations.

As an initial matter, section 6 at page 5 of the Final Office Action addresses Applicants' formerly filed Response. In that section, the Office Action rejects Applicants' former arguments under the assertion that the argued claim language is not supported by the Specification. As pointed out above, the Office Action improperly rejected the claims as not being supported by the Specification; support exists in the Specification for the argued claim language. Thus, the rejection of Applicants' arguments in relation to the cited references is tied to the newly, but improperly, introduced rejection under 35 U.S.C. § 112. Applicants note that the Final Office Action fails to disagree with Applicants' former argument that the argued claim language recites at least one element of the claimed invention that is not disclosed by the cited references. Applicants can therefore only assume that the argued claim language recites at least one element not disclosed by the cited references. Applicants restate below the former arguments.

*Ward* discusses protocol analyzers used to gather and store information on the use of communications networks, including packet networks. The cited portion of *Ward* discusses sending entire frames to a first statistics section to be analyzed and then to a second statistics section (and possibly a third or fourth) for further analyzing. See column 9, lines 34-47. In other words, rather than sending different segments or parts of frames to different respective statistics

sections, *Ward* teaches sending ***entire frames*** from one statistics section to the next. See esp., lines 40-42 ("Generally, the number of statistics section is determined by the time it takes **for one statistics section to fully analyze a frame**," implying that one section fully analyzes an entire frame.). Furthermore, *Ward* states that each statistics section is identical. See column 9, lines 47-48 ("Since each statistics section is identical...."). *Ward* fails to teach or disclose a filtering database comprising **layered rule tables, wherein each rule table applies to a respective protocol element of a packet**, as claimed by Applicant. (See Applicant's figure 3 as an example of layered rule tables.) Therefore, Applicant submits that claims 29, 47, 55 and 72 are not anticipated by *Ward*.

Claims 31-37 depend from claim 29. Claims 48-49 depend from claim 47. Claims 56 and 59 depend from claim 55. Claims 73-83 depend from claim 72. Given that dependent claims necessarily include the limitations of the claims from which they depend, Applicant respectfully submits that claims 31-36, 48-49, 56, 59, and 73-83 are not anticipated by *Ward*.

### Claim 63

Independent claim 63 was rejected under 35 U.S.C. § 102(e) as being anticipated by *Ward*. Claim 63 recites, in part, the following:

a packet prototype for determining a location to be modified in the filtering database, and

a filtering engine for receiving the packet prototype from an external software source and for modifying the location determined by the packet prototype.

The Office action merely states that *Ward* discloses the limitation "the packet filtering engine is coupled to receive a packet prototype modifying the filtering database." This statement does not accurately encompass any single limitation of claim 63, let alone all of the limitations of claim 63. The Manual of Patent Examining Procedure ("MPEP"), in § 2131, states:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 869 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Given that the rejection of claim 63 under 35 U.S.C. § 102(e) is inadequate, Applicants are unable to, and in fact is not required to respond unless or until a *prima facie* case is provided. Applicants note that although the above argument appeared in Applicants' previous Response, no attempt to correct the deficient rejection was offered in the subsequent Final Office Action. Applicants have thus not had an opportunity to reply to a complete rejection of the claims, even though the action was made final. Applicants therefore request that the rejection of this and its accompanying dependent claims be withdrawn, or at least that a proper rejection be presented to afford Applicants an opportunity to respond.

#### REJECTIONS UNDER 35 U.S.C. § 103

##### Claims 57, 58 and 64

Claims 57, 58 and 64 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ward* in view of U.S. Patent No. 5,917,821 issued to Gobuyan et al. (*Gobuyan*). Applicant submits that claims 57, 58 and 64 are not rendered obvious by *Ward* in view of *Gobuyan* for at least the reasons described below.

Claims 57 and 58 depend from claim 55, which recites selecting a protocol element from a packet and accessing a unique rule table in said layered tables of rule tables corresponding to the selected protocol element. As discussed above, *Ward* does not disclose the limitations of claim 55. *Gobuyan* was cited as disclosing a packet filtering system in which the protocol descriptor has the range to filter the packet. Whether or not *Gobuyan* actually teaches the limitations cited in the Office action, *Gobuyan* does not teach or disclose selecting a protocol element from a packet and accessing a unique rule table in said layered tables of rule tables corresponding to the selected protocol element. Thus, *Gobuyan* fails to cure the deficiencies of *Ward*. Therefore, Applicant respectfully submits *Ward* in view of *Gobuyan* does not render claims 57 and 58 obvious.

Claim 64 depends from claim 63. As discussed above, the rejection of claim 63 is inadequate. Given that dependent claims necessarily include the limitations of the claims from which they depend, the rejection of claim 64 is also inadequate. Thus, Applicant cannot respond to the rejection of claim 64 for the same reasons it cannot respond to the rejection of claim 63.

Claims 60-61

Claims 60-61 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,181,698 issued to Hariguchi et al. (*Hariguchi*). Claims 60-61 have been canceled. Therefore the rejection of these claims is moot.

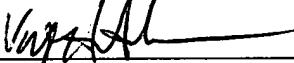
CONCLUSION

For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, claims 29, 31-37, 47-49, 55-59, 63, 64, and 72-83 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
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